CHANCERY COURT FOR SULLIVAN COUNTY AT BLOUNTVILLE

# STATE OF TENNESSEE CIVIL SUMMONS

Case Number 19-CV-1856 |

	page 1 of 1
RICKY UPCHURCH	
	of North America,
erved On:	Claims Dept. PO Box 9842, Phoenix, AZ 85068-9842
	tion filed against you in Chancery Court, Sullivan County, Tennessee. Your defense must be made
rithin thirty (30) days from the date this sun	ons is served upon you. You are directed to file your defense with the clerk of the court and send a sted below. If you fail to defend this action by the below date, judgment by default may be rendered
sued:	Clerk / Deputy Clerk
	and Joseph W. McMurray Kingsport, TN 37660
	ICE OF PERSONAL PROPERTY EXEMPTION ovides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exempti
isted in TCA § 26-2-301. If a judgment show the list, under oath, of the items you wisled the list, under oath, of the items you wisled the list of the list. Certain it wearing apparel (clothing) for your self and Bible, and school books. Should any of the light or how to exercise it, you may wish to select the list of the list.	The amount of the homestead exemption depends upon your age and the other factors which are doe entered against you in this action and you wish to claim property as exempt, you must file a colaim as exempt with the clerk of the court. The list may be filed at any time and may be changed is filed before the judgment becomes final, it will not be effective as to any execution or garnishments are automatically exempt by law and do not need to be listed; these include items of necessary ur family and trunks or other receptacles necessary to contain such apparel, family portraits, the families be seized you would have the right to recover them. If you do not understand your exemption the key the counsel of a lawyer. Please state file number on list.
Mail list to Katherine T. Priester, Clerk &	flaster
he original summons issued in this case.  Date: 71-19	CERTIFICATION (IF APPLICABLE)  Clerk of County do certify this to be a true and correct copy  Clerk / Deputy Clerk
OFFICER'S RETURN: Please execu	this summons and make your return within ninety (90) days of issuance as provided by law.
certify that I have served this summons tog	
vate:	
	By: Officer, Title
ETURN ON SERVICE OF SUM	IONS BY MAIL: I hereby certify and return that on, I sent postage
	tified return receipt mail, a certified copy of the summons and a copy of the complaint in the above
	. On I received the return receipt, which had been signed by
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on	. The return receipt is attached to this original summons to be filed by the Court Clerk.
	Notary Public / Deputy Clerk (Comm. Expires)

Rev. 03/11

# IN THE CHANCERY COURT FOR SULLIVAN COUNTY AT BLOUNTVILLE, TENNESSEE

RICKY UPCHURCH as Executor of
The Estate of JUANITA UPCHURCH,
For the use and benefit of the next of kin of
CLAYTON UPCHURCH,
Decedent,

vs.

C.A. No. 19 - CV - 1859 1

NATIONAL RIFLE ASSOCIATION and LIFE INSURANCE COMPANY OF NORTH AMERICA, Administered by: AGIA, Inc. Claims Dept. PO Box 9842 Phoenix, AZ 85068-9842,

FILED 7-1, 20 14 @3:57 a.m.p.m.

Katherine Priester Clerk & Master

By:

Defendant.

### **COMPLAINT**

- 1. The decedent was a citizen and resident of Sullivan County, Tennessee, and the defendant, NATIONAL RIFLE ASSOCIATION, is a foreign corporation doing business in the State of Tennessee. The decedent was issued a policy of accidental death insurance, by the defendant corporation. Said policy was to cover the decedent and pay a sum certain to decedent's beneficiary in the event of an accident leading to the death. Decedent faithfully paid his premium pursuant to the terms and a policy of insurance was issued to the decedent; a copy of said deck sheet is attached.
- 2. Pursuant to the policy, the decedent was current and faithful to the payments of his premiums as of August 22, 2014.
- 3. In August of 2014, the decedent drove his motorcycle across the Country to enter into a poker tournament in Las Vegas, Nevada.
- 4. While enjoying his stay in Nevada, the decedent was involved in a traffic accident on U.S. 93.
- 5. According to the accident report attached as "Exhibit A" decedent's motorcycle left the road way and struck a curbed sidewalk coming to rest 21 feet north of the curb line on Canyon

Road on the East curb line of U.S. 93.

- 6. Witnesses at the scene state that a vehicle traveling north, in the same direction as the decedent on U.S. 93, illegally and without warning came into the lane of travel of the decedent causing him to swerve and lose control of his motorcycle, and thereby causing the accident.
- 7. Upon the arrival of emergency responders, decedent was immediately taken to the hospital.
- 8. After multiple visits to local hospitals in Nevada the decedent succumbed to his injuries and passed away on September 4, 2014 ay Jamestown Regional Medical Center. Copy of the death certificate is attached here as "Exhibit B".
- 9. Wherein according to part two number 28 a of said death certificate, decedent's death was listed as an accident.
- 10. Additionally, the Clark County office of coroner/medical examiner issued a letter on October 7, 2014 to the decedent's daughter, Angela Smith, attached as "Exhibit C". This report unequivocally states that the cause of death was an accident due to motor vehicle collision.
- 11. The relatives of the decedent, pursuant to the terms of the policy, gave proper notice as required by said policy of insurance and complied in all particulars with the terms and condition of the policy.
- 12. Despite the facts as alleged above the defendant has denied payment under to pursuant to the policy as stated in "Exhibit D".
- 13. The plaintiff alleges that the defendant has intentionally breached the contract, has not dealt in good faith with the plaintiff, that the defendant's accepted money for premiums and has woefully refused to pay pursuant to the policy terms even though said policy has been submitted to the insurance company for many months.
- 14. The plaintiff further alleges that the defendant is guilty of deceptive trade practices all of which are in violation of Consumer Protection Act of the State of Tennessee. Therefore,

violation of said act entitles the plaintiff to treble damages.

### WHEREFORE, PLAINTIFF REQUESTS:

- 1. Wherein the process issue to that the plaintiff's be awarded to amounts due under the policy insurance
- 2. The plaintiff's be awarded damages pursuant to TCA §56-7-105. In addition, the defendant is liable upon issuers and bonding upon bad faith, failure to pay and failure to pay promptly, as required by insurance and bonding company's.
  - 3. Plaintiff be awarded pre judgement interest.
- 4. Plaintiff be awarded treble damages pursuant to Tennessee's Consumer Protection Act and attorney's fees.
  - 5. Any and all further relief equity so requires.

RICKY UPCHURCH as Executor of the Estate of Juanita Upchurch for the use and benefit of the next of kin of Clinton Upchick Decodors.

kin of Clayton Upchirch, Decedent

By:

R. WAYNE CULBERTSON, BPR 000765

Attorney for Plaintiff 119 W. Market Street Kingsport, Tennessee 37660 (423) 247-6161 – Telephone

(423) 247-5072

JOSEPH W. McMURRAY, BPR 28773

Attorney for plaintiff 119 W. Market Street Kingsport, TN 37660

(423)247-6161

**COST BOND** 

We acknowledge ourselves sureties for the payment of all costs of this cause.

I, Katherine Priester, Clerk & Master of the Chancery Court of Sullivan County at Kingsport, Tennessee do hereby certify this to be a true and perfect copy of

Katherine Priester, Clerk & Master

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V-1'S FINAL RESTING POINT IS 255 FEET NORTH OF THE NORTH CURB LINE OF CANYON ROAD AND 7 FEET EAST OF THE EAST CURB LINE OF US93

D-1'S FINAL RESTING POINT IS 286 FEET NORTH OF THE NORTH CURB LINE OF CANYON ROAD AND 21 FEET WEST OF THE EAST CURB LINE OF US93.



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# DEPARTMENT OF HEALTH AND HUMAN SERVICES DIVISION OF HEALTH - VITAL STATISTICS



### CERTIFICATE OF DEATH

2014016166

INT IN	ta DECEASED-NAME (FIRS	ST,MIDDLE,LAST,SUFFIX)	region in America.		2 DATE OF DEATH (Mo/Day/Yea	r) 3a COUNT	Y.OF.DEATH
WANENT.	Clayton Randolph	**************************************	UPCHURCH	JR	August 22, 2014		Clark
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4.5.0	े हुं 21a. To the best of my	knowledge, death occurred at taled. (Signature & Title)	he time, date and place and	22a On the	basis of examination and/or inve	stigation, in my opin	ion death occurred at
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	28a: ACC., SUICIDE, HOM., UNDE	T.:: 28b. DATE OF INJURY (Mo/Da)	(Yr) 28c HOUR OF INDURY	28d DESCRIBE H	OW INJURY OCCURRED	Yes	Yes Yes
	OR PENDING INVEST, (Specify) ACCIDENT	August 18, 2014	2107	Driver of n	notorcycle ejected duri	ng single veh	icle collision
	28e, INJURY AT WORK (Spec Yes or No) No	bullding, etc. (Specify)	home, farm, street, factory, office Road		N. STREET OR R.F.D. No.	CITY OR TOWN	
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VRS-Rev-20120523a



"CERTIFIED TO BE A TRUE AND CORRECT CORY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents authorized by the State Board of Health pursuant to NRS 440.175.

DATE ISSUED: OCT 10 2014

By: Down January
This Copy not valid unless prepared on engraved border displaying data, seal and signature of Registrar
SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Tax ID # 88-0151573





# Clark County Office of Coroner/Medical Examine

1704 Pinto Lane . Las Vegas, NV 89106

10/7/2014

Angela Smith 3209 Mayfield Drive Johnson City, TN 37604

Dear Angela Smith,

On behalf of the Clark County Office of the Coroner/Medical Examiner, we would like to extend our sincere sympathy to you regarding the loss of your loved one. This letter will serve as notification that the cause and manner of death has been determined as listed below:

Name:

Clayton Randolph Upchurch, Jr.

Date of Death:

8/22/2014

Case #:

14-07876

Immediate Cause:

Metastatic Adenoid Cystic Carcinoma

Due to:

Other Significant Condition:

Atherosclerotic Cardiovascular Disease and Blunt Force Chest

Trauma due to Motor Vehicle Collision

Manner of Death: Accident

As part of this process, further studies must often be conducted before certifying a death. Please contact the local funeral establishment you've been working with to assist you in obtaining a certified Death Certificate(s) as this letter does not serve as such.

If we can be of further assistance to you, please do not hesitate to contact our office.

Respectfully,

The Clark County Office of the Coroner/Medical Examiner

## R. WAYNE CULBERTSON, PC

R. Wayne Culbertson Attorney at Law rwc@wayneculbertsonlaw.com 119 W. Market Street Kingsport, Tennessee 37660 Telephone: (423) 247-6161 Facsimile: (423) 247-5072 Associate:
Joseph W. McMurray
Attorney at Law
mcmurraylaw@gmail.com

cmb@wayneculbertsonlaw.com

July 8, 2019
Via Certified Mail
Return Receipt Requested

AGIA, INC.
National Rifle Association & Life Insurance
Company of North America
PO Box 9842
Phoenix, AZ 85068-9842

Re:

Ricky Upchurch as Executor of the Estate of Juanita Upchurch for the use and benefit of the next of kin of Clayton Upchurch v. National Rifle Association and Life Insurance of North America; In the Chancery Court for Sullivan County at Blountville, Tennessee; C.A. No. 19-CV- 18591

Dear Sir or Madam:

I am enclosing herewith Summons and Complaint regarding the above referenced matter. Please forward same to your legal team for response.

Sincerely,

R. WAYNE CULBERTSON, PC

Joseph W. McMurray las

Joseph W. McMurray

JWM/cb Enclosure R. WAYNE CULBERTSON, PC Joseph W. McMurray Attorneys at Law 119 W. Market Street Kingsport, TN 37660 CERTIFIED MAIL®



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AGIA, INC. National Rifle Association & Life Insurance Company of North America PO Box 9842 Phoenix, AZ 85068-9842